

AN ACT

relating to protective orders; making conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 85.005(a) and (b), Family Code, are amended to read as follows:

(a) To facilitate settlement, the parties to a proceeding may agree in writing to ~~[the terms of]~~ a protective order as provided by Sections ~~[Section]~~ 85.021 and 85.022. An agreement under this subsection is subject to the approval of the court. The court may not approve an agreement that requires the applicant for the protective order to do or refrain from doing an act under Section 85.022.

(b) An ~~[To facilitate settlement, a respondent may agree in writing to the terms of a protective order as provided by Section 85.022, subject to the approval of the court. The court may not approve an agreement that requires the applicant to do or refrain from doing an act under Section 85.022. The]~~ agreed protective order is enforceable civilly or criminally, regardless of whether the court makes the findings required by Section 85.001.

SECTION 2. Section 85.006(a), Family Code, is amended to read as follows:

(a) Notwithstanding Rule 107, Texas Rules of Civil Procedure, a [A] court may render a protective order that is binding on a respondent who does not attend a hearing if:

1 (1) the respondent received service of the application
2 and notice of the hearing; and

3 (2) proof of service was filed with the court before
4 the hearing.

5 SECTION 3. Section 85.026(a), Family Code, is amended to
6 read as follows:

7 (a) Each protective order issued under this subtitle,
8 including a temporary ex parte order, must contain the following
9 prominently displayed statements in boldfaced type, capital
10 letters, or underlined:

11 "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR
12 CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN
13 JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

14 "NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS
15 ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY
16 PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS
17 VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT
18 UNLESS A COURT CHANGES THE ORDER."

19 "IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS
20 DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT
21 AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL
22 SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A
23 FIREARM OR AMMUNITION."

24 "IF A PERSON SUBJECT TO A PROTECTIVE ORDER IS RELEASED FROM
25 CONFINEMENT OR IMPRISONMENT FOLLOWING THE DATE THE ORDER WOULD HAVE
26 EXPIRED, OR IF THE ORDER WOULD HAVE EXPIRED NOT LATER THAN THE FIRST
27 ANNIVERSARY OF THE DATE THE PERSON IS RELEASED FROM CONFINEMENT OR

1 IMPRISONMENT, THE ORDER IS AUTOMATICALLY EXTENDED TO EXPIRE ON:

2 "(1) THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS
3 RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR
4 IMPRISONMENT FOR A TERM OF MORE THAN FIVE YEARS; OR

5 "(2) THE SECOND ANNIVERSARY OF THE DATE THE PERSON IS
6 RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR
7 IMPRISONMENT FOR A TERM OF FIVE YEARS OR LESS."

8 "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED
9 BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY
10 CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT
11 RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE
12 MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A
13 SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON
14 FOR AT LEAST TWO YEARS."

15 SECTION 4. Section 86.0011(a), Family Code, is amended to
16 read as follows:

17 (a) On receipt of an original or modified protective order
18 from the clerk of the issuing court, or on receipt of information
19 pertaining to the date of confinement or imprisonment or date of
20 release of a person subject to the protective order, a law
21 enforcement agency shall immediately, but not later than the third
22 business day after the date the order or information is received,
23 enter the information required by Section 411.042(b)(6),
24 Government Code, into the statewide law enforcement information
25 system maintained by the Department of Public Safety.

26 SECTION 5. Article 7B.001(a), Code of Criminal Procedure,
27 is amended to read as follows:

1 (a) The following persons may file an application for a
2 protective order under this subchapter without regard to the
3 relationship between the applicant and the alleged offender:

4 (1) a person who is the victim of an offense under
5 Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, [✗] 42.072,
6 or 43.05, Penal Code;

7 (2) any adult, including a parent or guardian, who is
8 acting on behalf of a victim described by Subdivision (1), if the
9 victim is younger than 18 years of age or an adult ward [a person who
10 is the victim of an offense under Section 20A.02, 20A.03, or 43.05,
11 Penal Code]; or

12 (3) [~~a parent or guardian acting on behalf of a person~~
13 ~~younger than 17 years of age who is the victim of an offense listed~~
14 ~~in Subdivision (1);~~

15 [~~(4) a parent or guardian acting on behalf of a person~~
16 ~~younger than 18 years of age who is the victim of an offense listed~~
17 ~~in Subdivision (2); or~~

18 [(5)] a prosecuting attorney acting on behalf of a
19 person described by Subdivision (1) or [7] (2) [~~7~~ (3), ~~or~~ (4)].

20 SECTION 6. Article 7B.001, Code of Criminal Procedure, is
21 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th
22 Legislature, Regular Session, 2019, by adding Subsections (a-1) and
23 (a-2) and is further amended to read as follows:

24 (a-1) Except as provided by Subsection (a-2), if an
25 application has not yet been filed in the case under Subsection (a),
26 the attorney representing the state shall promptly file an
27 application for a protective order with respect to each victim of an

1 offense listed in Subdivision (1) of that subsection following the
2 offender's conviction of or placement on deferred adjudication
3 community supervision for the offense.

4 (a-2) The attorney representing the state may not file an
5 application under Subsection (a-1) with respect to a victim if the
6 victim requests that the attorney representing the state not file
7 the application. This subsection does not apply to a victim who is
8 younger than 18 years of age or who is an adult ward.

9 SECTION 7. Article 7B.003, Code of Criminal Procedure, is
10 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th
11 Legislature, Regular Session, 2019, by adding Subsection (c) and is
12 further amended to read as follows:

13 (c) An offender's conviction of or placement on deferred
14 adjudication community supervision for an offense listed in Article
15 7B.001(a)(1) constitutes reasonable grounds under Subsection (a).

16 SECTION 8. Article 7B.007, Code of Criminal Procedure, is
17 amended to conform to Chapter 1066 (H.B. 1343), Acts of the 86th
18 Legislature, Regular Session, 2019, by adding Subsection (a-1) and
19 is further amended to read as follows:

20 (a-1) The court shall issue a protective order effective for
21 the duration of the lives of the offender and victim if the offender
22 is:

23 (1) convicted of or placed on deferred adjudication
24 community supervision for an offense listed in Article
25 7B.001(a)(1); and

26 (2) required under Chapter 62 to register for life as a
27 sex offender.

1 SECTION 9. Article 7B.007, Code of Criminal Procedure, is
2 amended by amending Subsection (b) and adding Subsection (b-1) to
3 read as follows:

4 (b) The following persons may file at any time an
5 application with the court to rescind the protective order:

6 (1) a victim of an offense listed in Article
7 7B.001(a)(1) who is 18 [~~17~~] years of age or older;

8 (2) subject to Subsection (b-1), [or] a parent or
9 guardian acting on behalf of a victim of an offense listed in
10 Article 7B.001(a)(1) who is younger than 18 [~~17~~] years of age or an
11 adult ward; or

12 (3) a person not otherwise described by Subdivision
13 (1) or (2) who filed the application for the protective order.

14 (b-1) A [(2) a victim of an offense listed in Article
15 7B.001(a)(2) or a] parent or guardian may not file an application to
16 rescind the protective order under Subsection (b)(2) if the parent
17 or guardian is the alleged offender subject to the protective order
18 [acting on behalf of a victim who is younger than 18 years of age].

19 SECTION 10. Article 56A.052(d), Code of Criminal Procedure,
20 is amended to read as follows:

21 (d) This subsection applies only to a victim of an offense
22 under Section 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 42.072,
23 or 43.05, Penal Code. A victim described by this subsection or a
24 parent or guardian of the victim, if the victim is younger than 18
25 years of age or an adult ward, is entitled to the following rights
26 within the criminal justice system:

27 (1) the right to be informed:

1 (A) that the victim or, if the victim is younger
2 than 18 years of age or an adult ward, the victim's parent or
3 guardian or another adult acting on the victim's behalf~~[, as~~
4 ~~applicable,~~] may file an application for a protective order under
5 Article 7B.001;

6 (B) of the court in which the application for a
7 protective order may be filed; ~~and~~

8 (C) that, on request of the victim or, if the
9 victim is younger than 18 years of age or an adult ward, on request
10 of the victim's parent or guardian or another adult acting on the
11 victim's behalf, ~~[as applicable, and subject to the Texas~~
12 ~~Disciplinary Rules of Professional Conduct,~~] the attorney
13 representing the state may, subject to the Texas Disciplinary Rules
14 of Professional Conduct, file the application for a protective
15 order on behalf of the requestor ~~[victim];~~ and

16 (D) that, subject to the Texas Disciplinary Rules
17 of Professional Conduct, the attorney representing the state
18 generally is required to file the application for a protective
19 order with respect to the victim if the defendant is convicted of or
20 placed on deferred adjudication community supervision for the
21 offense;

22 (2) the right to:

23 (A) request that the attorney representing the
24 state, subject to the Texas Disciplinary Rules of Professional
25 Conduct, file an application for a protective order described by
26 Subdivision (1); and

27 (B) be notified when the attorney representing

1 the state files an application for a protective order under Article
2 7B.001;

3 (3) if the victim or the victim's parent or guardian,
4 as applicable, is present when the defendant is convicted or placed
5 on deferred adjudication community supervision, the right to:

6 (A) be given by the court the information
7 described by Subdivision (1); and

8 (B) file an application for a protective order
9 under Article 7B.001 immediately following the defendant's
10 conviction or placement on deferred adjudication community
11 supervision if the court has jurisdiction over the application; and

12 (4) if the victim or the victim's parent or guardian,
13 as applicable, is not present when the defendant is convicted or
14 placed on deferred adjudication community supervision, the right to
15 be given by the attorney representing the state the information
16 described by Subdivision (1).

17 SECTION 11. Section 25.07, Penal Code, is amended by
18 amending Subsection (g) and adding Subsection (h) to read as
19 follows:

20 (g) An offense under this section is a Class A misdemeanor,
21 except the offense is:

22 (1) subject to Subdivision (2), a state jail felony if
23 it is shown at the trial of the offense that the defendant violated
24 an order issued under Subchapter A, Chapter 7B [~~as a result of an~~
25 ~~application filed under Article 7A.01(a-1)]], Code of Criminal
26 Procedure, following the defendant's conviction of or placement on
27 deferred adjudication community supervision for an offense, if the~~

1 order was issued with respect to a victim of that offense; or

2 (2) a felony of the third degree if it is shown on the
3 trial of the offense that the defendant:

4 (A) has previously been convicted two or more
5 times of an offense under this section or two or more times of an
6 offense under Section 25.072, or has previously been convicted of
7 an offense under this section and an offense under Section 25.072;
8 or

9 (B) has violated the order or condition of bond
10 by committing an assault or the offense of stalking.

11 (h) For purposes of Subsection (g), a conviction under the
12 laws of another state for an offense containing elements that are
13 substantially similar to the elements of an offense under this
14 section or Section 25.072 is considered to be a conviction under
15 this section or Section 25.072, as applicable.

16 SECTION 12. The following provisions are repealed:

17 (1) Section 1, Chapter 1066 (H.B. 1343), Acts of the
18 86th Legislature, Regular Session, 2019, which amended Article
19 7A.01, Code of Criminal Procedure;

20 (2) Section 2, Chapter 1066 (H.B. 1343), Acts of the
21 86th Legislature, Regular Session, 2019, which amended Article
22 7A.03, Code of Criminal Procedure; and

23 (3) Section 3, Chapter 1066 (H.B. 1343), Acts of the
24 86th Legislature, Regular Session, 2019, which amended Article
25 7A.07, Code of Criminal Procedure.

26 SECTION 13. Section 85.005, Family Code, as amended by this
27 Act, applies only to a protective order approved by the court on or

1 after the effective date of this Act.

2 SECTION 14. Section 85.006, Family Code, as amended by this
3 Act, applies only to a protective order for which the respondent
4 receives service on or after the effective date of this Act.

5 SECTION 15. Sections 85.026 and 86.0011, Family Code, as
6 amended by this Act, apply only to a protective order issued on or
7 after the effective date of this Act.

8 SECTION 16. Subchapter A, Chapter 7B, Code of Criminal
9 Procedure, as amended by this Act, applies only to a protective
10 order for which an application is filed on or after the effective
11 date of this Act.

12 SECTION 17. Article 56A.052(d), Code of Criminal Procedure,
13 as amended by this Act, applies to a victim of criminally injurious
14 conduct for which a judgment of conviction is entered or a grant of
15 deferred adjudication community supervision is made on or after the
16 effective date of this Act, regardless of whether the criminally
17 injurious conduct occurred before, on, or after the effective date
18 of this Act.

19 SECTION 18. To the extent of any conflict, this Act prevails
20 over another Act of the 87th Legislature, Regular Session, 2021,
21 relating to nonsubstantive additions to and corrections in enacted
22 codes.

23 SECTION 19. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 39 was passed by the House on April 9, 2021, by the following vote: Yeas 145, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 39 on May 28, 2021, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 39 was passed by the Senate, with amendments, on May 19, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor